

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

**SHERRY SCALERCIO-ISENBERG,**

**Plaintiff,**

**v.**

**CREDIT SUISSE GROUP, SELECT  
PORTFOLIO SERVICING, INC. (SPS),  
MITCHELL SCOTT KURTZ, and  
ROBERT D. BAILEY,**

**Defendants.**

Civ. No. No. 22-2705 (KM) (AME)

**ORDER**

**THIS MATTER** having come before the Court on the motion of Plaintiff Sherry Scalercio-Isenberg (DE 18) for default judgment as to Defendant Select Portfolio Servicing, Inc. (“SPS”); the motion of plaintiff (DE 25) for default judgment as to Defendant Credit Suisse Group; the motion of SPS (DE 27) to dismiss the complaint under Rule 4(m); and the motion of Defendants Mitchell Scott Kurtz and Robert D. Bailey (DE 21) to dismiss the complaint under Rule 12(b)(1) and Rule 12(b)(6); and the Court having considered the papers in support and in opposition (DE 18, 19, 20, 21, 22, 23, 24, 25, 27, 30); for the reasons stated in the accompanying Opinion, and good cause appearing therefor;

**IT IS** this 28th day of February, 2023,

**ORDERED** that plaintiff’s motion (DE 18) for entry of default judgment against SPS is **DENIED**; and it is further

**ORDERED**, in light of the defective service against SPS, that SPS’s motion (DE 27) to dismiss the complaint is **DENIED** without prejudice to refiling or renewal as may become appropriate; and it is further

**ORDERED** that plaintiff’s motion (DE 25) for entry of default judgment against Credit Suisse Group is **DENIED**; and it is further

**ORDERED** that Kurtz and Bailey's motion (DE 21) to dismiss the complaint is **GRANTED**; and it is further

**ORDERED** that dismissal of all claims against Kurtz and Bailey is without prejudice to the filing of a proposed amended complaint within 30 days. If no proposed amended complaint is filed, this shall become a with-prejudice dismissal.

/s/ Kevin McNulty

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**Kevin McNulty**  
**United States District Judge**